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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Wagner et al.
Serial No: 09/241,653
Conf. No.: 8996
Filed: February 2, 1999
For: METHODS FOR REGULATING HEMATOPOIESIS USING CPG
OLIGONUCLEOTIDES
Examiner: Jane Zara
Art Unit: 1635

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The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Commissioner for Patents, Washington, D.C. 20231, on the 2nd day of May, 2002.

Yvonne Ling
Yvonne Ling

Commissioner for Patents
Washington, D.C. 20231

**RESPONSE TO OFFICE ACTION AND
PETITION FOR ONE-MONTH EXTENSION OF TIME**

Sir:

This paper is filed in response to the non-final Office Action mailed January 2, 2002, in connection with the above-referenced application. A one-month extension of time, to and including May 2, 2002, is requested for responding to the Office Action.

Status

Claims 1-77 are pending in the application. The Applicant acknowledges the withdrawal by the Examiner of all previous rejections. Claims 1-77 are rejected on new grounds, addressed herein.

New Rejections Made Under § 102(e)

The Examiner has rejected claims 1-12 and 14-77 under § 102(e) as being anticipated by Krieg et al. (US 6,214,806). For reasons stated below, Applicant respectfully requests the Examiner to withdraw her rejection of claims 1-12 and 14-77 made under § 102(e).

In order for a claim to be anticipated by a reference, the reference must disclose each and every element of the claim.

Claims 1-12 and 14-26. The reference does not explicitly disclose a method involving administering a CpG oligonucleotide to a subject and subsequently exposing the subject to an

antigen at least 3 days after administering the CpG oligonucleotide to produce an antigen-specific immune response. Claim 1 of the instant invention requires that CpG is administered at least three days prior to antigen exposure. Since this claim limitation is not found in the Krieg et al. reference, claim 1 and all claims depending from claim 1 are not anticipated by the reference. The Applicant therefore respectfully requests the Examiner to withdraw her rejection of claims 1-12 and 14-26.

Claims 27-41. The reference does not disclose a method involving administering a CpG oligonucleotide to a subject having thrombocytopenia, as claimed in claim 27 of the instant application. Therefore claim 27 and all claims depending from claim 27 are not anticipated by the reference. The Applicant therefore respectfully requests the Examiner to withdraw her rejection of claims 27-41.

Claims 42-50. The reference does not disclose a method involving administering a CpG oligonucleotide to a subject at risk of developing thrombocytopenia, as claimed in claim 42 of the instant application. Therefore claim 42 and all claims depending from claim 42 are not anticipated by the reference. The Applicant therefore respectfully requests the Examiner to withdraw her rejection of claims 42-50.

Claims 51-65. The reference does not disclose a method involving administering a CpG oligonucleotide to a subject having anemia, as claimed in claim 51 of the instant application. Therefore claim 51 and all claims depending from claim 51 are not anticipated by the reference. The Applicant therefore respectfully requests the Examiner to withdraw her rejection of claims 51-65.

Claims 66-72. The reference does not disclose a method involving administering a CpG oligonucleotide to a nonhuman vertebrate and exposing the nonhuman vertebrate to an antigen at least three days after administering the CpG oligonucleotide, as claimed in claim 66 of the instant application. Therefore claim 66 and all claims depending from claim 66 are not anticipated by the reference. The Applicant therefore respectfully requests the Examiner to withdraw her rejection of claims 66-72.

Claims 73 and 74. The reference does not disclose a method involving administering a CpG oligonucleotide to a nonhuman vertebrate having thrombocytopenia, as claimed in claim 73 of the instant application. Therefore claim 73 and all claims depending from claim 73 are not anticipated by the reference. The Applicant therefore respectfully requests the Examiner to withdraw her rejection of claims 73 and 74.

Claims 75-77. The reference does not disclose a method involving administering a CpG oligonucleotide to a nonhuman vertebrate having or at risk of having anemia, as claimed in claim 75 of the instant application. Therefore claim 75 and all claims depending from claim 75 are not anticipated by the reference. The Applicant therefore respectfully requests the Examiner to withdraw her rejection of claims 75-77.

Applicant respectfully submits that the reference cited by Examiner does not anticipate any of the claimed subject matter of the present invention. Applicant therefore respectfully requests the Examiner to withdraw her rejection of claims 1-77 made under § 102(e).

New Rejections Made Under § 103(a)

The Examiner has rejected claims 1-77 under § 103(a) as obvious over Krieg et al. (US 6,214,806) in view of Krieg et al. (US 6,207,646). For reasons stated below, Applicant respectfully requests the Examiner to withdraw her rejection of claims 1-77 made under § 103(a).

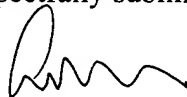
The combination of the two references does not provide all of the claimed elements. The Examiner asserts that the '646 reference supplies administration of a nucleic acid molecule which encodes an antigen. In view of the foregoing arguments with respect to Krieg et al. (US 6,214,806), the Applicant respectfully submits that the suggested combination of references does not render the claims of the instant application obvious. The Examiner has failed to make a prima facie showing of obviousness.

Applicant respectfully submits that the proposed combination of references does not teach or suggest the claimed subject matter of the present invention. Applicant therefore respectfully requests the Examiner to withdraw her rejection of claims 1-77 made under § 103(a).

Conclusion

It is believed claims 1-77 are in condition for allowance. Prompt and favorable action is earnestly solicited. If for any reason the Examiner has any question or would require further information, she is encouraged to contact the Applicant's representative at the number presented below.

Respectfully submitted,



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